

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KONNECH, INC.

Plaintiff,

v.

**TRUE THE VOTE, INC., GREGG
PHILLIPS AND CATHERINE
ENGELBRECHT,
Defendants**

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CIVIL ACTION NO. 4 :22-CV-03096

DEFENDANTS' RESPONSE TO MOTION TO SHOW CAUSE AND CONTEMPT

TO UNITED STATES DISTRICT JUDGE KENNETH HOYT:

COME NOW DEFENDANTS, True the Vote, Inc., Gregg Phillips and Catherine Engelbrecht and hereby file their Response to Motion to Show Cause and Contempt, and with respect thereto, would show the Court the following:

1. Plaintiff Konnech, Inc. has brought action against Defendants, alleging a plethora of matters that are simply false, and accusing these Defendants of not only improper but illegal conduct. At the time of the filing of this lawsuit, Plaintiff sought and acquired a Temporary Restraining Order which was predicated on the supposed truth of the allegations in the Complaint. Defendants learned first of this filing in the press. Upon notice of the entry of this Temporary Restraining Order, obtained *ex parte* and without an effort to engage Defendants prior to its entry, Defendants corresponded with Konnech counsel to explain facts relating to these allegations. Such correspondence was attached to Plaintiff's Motion to Show Cause and

Contempt. As is evident from the correspondence, Defendants explain that the fundamentals of the allegations made by Konnech are untrue, and provided a general explanation as to what occurred. Further, Defendants pointed out that there was no problem with adhering to the Temporary Restraining Order because Defendants had not committed the conduct about which they were accused, and were not going to start doing so. Defendants have neither improperly acquired nor disclosed the data acquired on a server in China to anyone other than the FBI.

2. Significantly, though, there is one matter relating to the Temporary Injunction which Defendants have not complied with in every respect. This is the basis of the Motion to Show Cause and Contempt. Specifically, and as fully explained in the correspondence to Konnech counsel, Defendants turned over data and information to the Federal Bureau of Investigation which had been given to them. The data and information that was turned over then became what Defendants understood to be an investigation by the FBI. Providing the identity of the individual from whom this data was acquired has the potential of disrupting the FBI investigation, pure and simple. Significantly, Defendants believe that revealing the name of this individual has significant national security and law enforcement implications that should be addressed outside of this Court.

3. Defendants did not simply refuse to provide the name, however, and ignore this Court's Order. Instead, Defendants' counsel sent the Court a letter on September 15, 2022 under seal explaining the reason for not providing the name, but in turn providing the name to the Court in a manner that has not been shared publicly or to Konnech's counsel. Further, Defendants wrote to the FBI the same day to alert them of this matter and to the potential risk of what might be to them an undesirable interference in their investigation, inviting the FBI to assert itself on this matter. To date, the FBI has taken no position despite the invitation to do so.

4. Faced with the problem of complying with a Temporary Restraining Order, acquired from the Court without input of any sort from Defendants where an FBI investigation might be placed at risk, Defendants took what they thought was the most reasonable and prudent position as to the identity of this individual. Defendants have a legal obligation, pursuant to 18 U.S.C. §798 to not make available to an unauthorized person information prejudicial to the interest of the United States.

5. This is far from a circumstance where Defendants are being unreasonable and refusing to cooperate with the Court or Konnech in this matter. Indeed, Defendants have agreed to an Agreed Preliminary Injunction wherein they agree to not go and improperly gain access to Konnech's servers and purloin its data, among other things. This is an easy position for Defendants to take since they have not improperly gained access to Konnech's servers in the past and have not purloined Konnech's data. Defendants are unwilling to violate 18 U.S.C. §798 and thwart the efforts of the FBI to investigate massive improprieties by being imprudent in the revealing of this identity.

WHEREFORE, PREMISES CONSIDERED, Defendants True the Vote, Inc., Gregg Phillips and Catherine Engelbrecht respectfully pray that this Court deny the Motion to Show Cause and for Contempt, withhold the name provided to the Court under seal until the FBI expresses disinterest in its being revealed, and for other and further relief to which Defendants are otherwise justly entitled.

THE AKERS FIRM, PLLC

By:

A handwritten signature in black ink, appearing to read "Brock C. Akers". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Brock C. Akers
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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that, on this 23rd day of September 2022, we electronically filed the foregoing document with the Clerk of the Court using CM/ECF. We also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner to those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

A handwritten signature in black ink that reads "Brock C. Akers". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Brock C. Akers